

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

February 22, 2019

Before:

AMY C. BARRETT, *Circuit Judge*

CERTIFIED COPY

A True Copy

Teste:

Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit



No. 18-3338	NATIONAL LABOR RELATIONS BOARD, Petitioner v. 3232 CENTRAL AVENUE, LLC, doing business as CENTRAL MARKET OF INDIANA, INC., Respondent
Originating Case Information:	
Agency Case Nos: 13-CA-172779, 13-CA-173389, 13-CA-194865 National Labor Relations Board	

Upon consideration of the **APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD**, filed on October 30, 2018, by counsel for the petitioner,

IT IS ORDERED that the application for summary entry of judgment is **GRANTED** and the attached judgment is **ENFORCED**.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT


NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case Nos.:
3232 CENTRAL AVENUE, LLC	:	13-CA-172779,
D/B/A CENTRAL MARKET OF INDIANA, INC.	:	13-CA-173389,
	:	13-CA-194865
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, 3232 Central Avenue, LLC d/b/a Central Market of Indiana, Inc., its officers, agents, successors, and assigns, enforcing its order dated August 21, 2018, in Case Nos. 13-CA-172779, 13-CA-173389 and 13-CA-194865, reported at 366 NLRB No. 167, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, 3232 Central Avenue, LLC d/b/a Central Market of Indiana, Inc., its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).



Judge, United States Court of
Appeals for the Seventh Circuit

NATIONAL LABOR RELATIONS BOARD

v.

3232 CENTRAL AVENUE, LLC
D/B/A CENTRAL MARKET OF INDIANA, INC.

ORDER

3232 Central Avenue, LLC d/b/a Central Market of Indiana, Inc., Lake Station, Indiana, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Reducing the work hours of unit employees because they support and assist the Union, Local 881, United Food and Commercial Workers, and to discourage employees from engaging in these activities.
 - (b) Prohibiting employees in the bargaining unit from taking vacation days because they support and assist the Union, and to discourage employees from engaging in these activities.
 - (c) Laying off, constructively discharging or otherwise discriminating against employees for supporting the Union or any other labor organization.
 - (d) Unilaterally changing the terms and conditions of employment of its unit employees.
 - (e) Refusing to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.
 - (f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Rescind the reductions of work hours for unit employees that were unilaterally implemented about August 2016 and October 2016.
 - (b) Rescind the policy prohibiting unit employees from taking vacation days that was unilaterally implemented about October 19, 2016.

- (c) Before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of employees in the following bargaining unit:

All employees working in the above retail store of the Company who are actively engaged in handling or selling of merchandise, excluding those employees in the Meat Department, Deli Department, Seafood Department, Maintenance Employees, one (1) Store Manager, one (1) Produce Manager, three (3) Assistant Managers, one (1) Grocery Manager and Pharmacists.

- (d) Make its unit employees whole for any loss of earnings and other benefits suffered as a result of the unlawful reductions of work hours and policy prohibiting unit employees from taking vacation days, in the manner set forth in the remedy section of this decision.
- (e) Within 14 days from the date of this Order, offer its unit employees who were laid off and/or constructively discharged between December 2016 and March 2017 full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
- (f) Make unit employees laid off or constructively discharged between December 2016 and March 2017 whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of this decision.
- (g) Compensate the affected employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.
- (h) Within 14 days from the date of this Order, remove from its files any reference to the unlawful reductions of hours, layoff and constructive discharges, and within 3 days thereafter, notify the employees in writing that this has been done and that the reductions of hours and discharges will not be used against them in any way.
- (i) Furnish to the Union in a timely manner the information requested by the Union on about November 15, 2015.

- (j) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (k) Within 14 days after service by the Region, post at its Lake Station, Indiana facility copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 13 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since about February 8, 2016.
- (l) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT reduce your hours because you support and assist the Union, Local 881, United Food and Commercial Workers, and to discourage you from engaging in these activities.

WE WILL NOT prohibit you from taking vacation days because you support and assist the Union, and to discourage you from engaging in these activities.

WE WILL NOT change your terms and conditions of employment without first notifying the Union and giving it an opportunity to bargain.

WE WILL NOT discharge or otherwise discriminate against any of you for supporting the Union or any other labor organization.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind the reductions of hours of our unit employees that were unilaterally implemented about August 2016 and October 2016.

WE WILL rescind the policy prohibiting unit employees from taking vacation days.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following bargaining unit:

All employees working in the above retail store of the Company who are actively engaged in handling or selling of merchandise, excluding those employees in the Meat Department, Deli Department, Seafood Department, Maintenance Employees, one (1) Store Manager, one (1) Produce Manager, three (3) Assistant Managers, one (1) Grocery Manager and Pharmacists.

WE WILL make unit employees whole for any loss of earnings and other benefits suffered as a result of our unlawful unilateral reductions of their hours and prohibition against taking vacation days, plus interest.

WE WILL, within 14 days from the date of the Board's Order, offer our unit employees who were laid off and/or constructively discharged between December 2016 and March 2017 full reinstatement to their former jobs or, if those jobs no longer exists, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make unit employees who were laid off and/or constructively discharged between December 2016 and March 2017 whole for any loss of earnings and other benefits resulting from their unlawful layoffs and/or discharges, less any net interim earnings, plus interest, and WE WILL also make such employees whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate affected employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful reductions of hours and discharges of unit employees, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done and that the discharges will not be used against them in any way.

We WILL furnish to the Union in a timely manner the information requested by the Union on about November 15, 2015.

3232 CENTRAL AVE, LLC
D/B/A CENTRAL MARKET OF INDIANA, INC.

The Board's decision can be found at www.nlr.gov/case/13-CA-172779 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



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NOTICE OF AGENCY CASE CLOSING

April 16, 2019

To:

National Labor Relations Board

No. 18-3338	NATIONAL LABOR RELATIONS BOARD, Petitioner v. 3232 CENTRAL AVENUE, LLC, doing business as CENTRAL MARKET OF INDIANA, INC., Respondent
Originating Case Information:	
Agency Case No: 13-CA-172779 National Labor Relations Board	
Originating Case Information:	
Agency Case No: 13-CA-173389 National Labor Relations Board	
Originating Case Information:	
Agency Case No: 13-CA-194865 National Labor Relations Board	

Herewith is the final order of this court in this matter, along with the Bill of Costs, if any.
This court's order is final and this case is closed in this court.

RECORD ON APPEAL STATUS:

No record to be returned.



Received above closing letter, if any, from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date

Agency Rep., National Labor Relations
Board

form name: c7_AgencyClosingLetter(form ID: 136)